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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

Michael A. McGill SBN: 231613
mcgill@policeattorney.com
Carolina Veronica Diaz SBN:263301
veronica@policeattorney.com
LACKIE, DAMMEIER & MCGILL APC
367 North Second Avenue
Upland, CA 91786
Telephone: (909) 985-4003
Facsimile: (909) 985-3299
Attorneys for Plaintiff-Petitioner
RUSSEL RUETZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Claim of RUSSELL RUETZ,
Plaintiff,
vs.

Case No.: CV11-03921 JAK 9(Ex)

**SECOND AMENDED
COMPLAINT FOR DAMAGES**

SANTA MONICA COMMUNITY
COLLEGE DISTRICT, a municipal
corporation; SANTA MONICA
COLLEGE POLICE DEPARTMENT,
an operating department thereof;
ALBERT VASQUEZ, individually and
as Police Chief; KURT TRUMP,
individually and as Acting
Chief/Sergeant; SHERYL AGARD,
individually and as Secretary to the
Chief of Police, JENNIFER JONES,
individually and as Secretary; TARA
CRITTENDEN, individually and as
Dispatcher; and ROES 1-10,
Defendants.

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JURISDICTION & VENUE

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2 1. Jurisdiction is proper because the parties reside in the Los Angeles
3 region. Venue is proper in the Superior Court of Los Angeles- Central District in
4 that the wrongs alleged herein occurred within the County of Los Angeles.
5

6 **PARTIES**

7 2. Plaintiff, RUSSEL RUETZ (hereinafter referred to as "Plaintiff"), is a
8 United States citizen and resident of the State of California. Plaintiff is a current
9 employee of the Santa Monica Community College, employed as a police officer.
10 Plaintiff is a white male. At all times relevant to the allegations contained herein,
11 Ruetz has been a resident of Los Angeles County. Claimant's home address is
12 confidential under Penal Code §§146e and 832.7, and Vehicle Code
13 §1808.4(a)(11).
14

15 3. Defendants, SANTA MONICA COMMUNITY COLLEGE
16 DISTRICT (hereinafter referred to as "SMC") , a municipal corporation and
17 SANTA MONICA COLLEGE POLICE DEPARTMENT (hereinafter referred to
18 as "Department"), an operating department thereof; is a duly constituted municipal
19 corporation operating under the laws of the State of California, wholly situated in
20 the County of Los Angeles.

21 4. At all times relevant herein for all purposes connected with the
22 management of employment relations matters within the Department and the
23 District, the District and Department delegated its final policy-making authority to
24 Defendants': Albert Vasquez, Kurt Trump, Sheryl Agard, Jennifer Jones, and Tara
25 Crittenden (and ROES 1-10). The City adopted and ratified each of these
26 individuals decisions as alleged herein as its own policies, customs, practices or
27 decisions, as if the same had been promulgated directly by the District and the
28 Department.

1 5. Defendant ALBERT VASQUEZ ("Vasquez") was at all times
2 relevant, the Police Chief for the Police Department at SMC. In doing the things
3 alleged herein, Vasquez acted under color of state law, within the course and scope
4 of his employment, and as an official policy-maker for the District and
5 Department. As a Department Head, Vasquez is vested with policy-making
6 authority over actions such as the ones at issue in this complaint.

7 6. Defendant KURT TRUMP ("Trump") was at all times relevant, a
8 Police Sergeant for the Police Department at SMC. Trump is/was employed as a
9 Sergeant and previously served as the Acting Chief of Police. In doing the things
10 alleged herein, Trump acted under color of state law, and within the course and
11 scope of his employment.

12 7. Defendant SHERYL AGARD ("Agard") (also known as "Sasha") was
13 at all times relevant, an employee of the Police Department at SMC. Agard is/was
14 employed as a Secretary to the Chief of Police. In doing the things alleged herein,
15 Agard acted under color of state law, and within the course and scope of her
16 employment.

17 8. Defendant JENNIFER JONES ("Jones") was at all times relevant, an
18 employee of the Police Department at SMC. Jones is/was employed as a Secretary
19 to the Chief of Police. In doing the things alleged herein, Jones acted under color
20 of state law, and within the course and scope of her employment.

21 9. Defendant TARA CRITTENDEN ("Crittenden") was at all times
22 relevant, an employee of the Police Department at SMC. Crittenden is/was
23 employed as a Dispatcher. In doing the things alleged herein, Crittenden acted
24 under color of state law, and within the course and scope of her employment.
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1 Monica College District and its Police Department. Plaintiff was hired by the
2 SMC/Department in June 2005 to the position of police officer. Plaintiff has been a
3 productive and highly successful member of the Police Department. Plaintiff has
4 been a valuable asset to both the SMC/Department and the public which he serves.

5 17. In or around 2008, Plaintiff suggested to the Department and other
6 employees of the Department- the start up a union/association for its police
7 officers. Plaintiff pioneered this endeavor and was ultimately elected as
8 Parliamentarian for the Santa Monica College Police Officers Association
9 ("SMCPOA") in or around 2010.

10 18. Right around the start- up of the POA, in or about 2008, Plaintiff
11 decided to exercise his rights under the Peace Officer Bill of Rights ("POBR") and
12 therefore requested a representative to be present at a meeting with the Chief of
13 Police and the Vice President of the District.

14 19. Shortly after Plaintiff exercised his rights under the POBR, in March
15 2008, DEFENDANT, SERGEANT KURT TRUMP, stated to Plaintiff that "POBR
16 is a joke" and that "people who exercise their rights under POBR should be fired".
17 TRUMP also stated to Plaintiff that since he had requested a representative for a
18 meeting, that TRUMP was "going to take this issue to a higher level". Plaintiff
19 understood these comments to be harassing and threatening.

20 20. Thereafter, On March 31, 2008, Plaintiff reported SERGEANT
21 TRUMP'S actions and comments to the District/Department. After Plaintiff's
22 report, TRUMP and other DEFENDANTS' conduct towards Plaintiff worsened.

23 21. After Plaintiff complained and filed a report of retaliation and
24 harassment by TRUMP, in mid-April 2008, TRUMP told Plaintiff that he "was no
25 longer going to be a detective". On May 1, 2008, Plaintiff was also denied
26 administrative access to the department computer (Computer Aided Dispatch
27 System also known as "CAD") because, according to Defendants, "[Plaintiff]
28

1 couldn't be trusted". Previous to this incident, Plaintiff assisted in procuring the
 2 CAD and was assigned to setup the CAD by the prior Chief of Police. Moreover,
 3 after Plaintiff complained to the District/Department, he underwent numerous
 4 arbitrary and retaliatory write-ups, such as verbal counseling memorandums.

5 22. In 2008, Plaintiff, during a "confidential" department review with a
 6 clinical psychologist who works for Defendants, Manny Tau, Plaintiff was told to
 7 be honest about his feelings about the Department. Plaintiff stated that the
 8 Department had poor management and that Plaintiff had been mistreated.
 9 Plaintiff's review was then leaked to TRUMP. TRUMP told Plaintiff that because
 10 of the department review, Plaintiff "was a problem with the department".

11 **B. Defendants' Retaliation for Plaintiff's Union Activity**

12 23. After Plaintiff's start-up and involvement in union activity, since 2008
 13 and from 2009, 2010 to the present, Defendant TRUMP would constantly harass
 14 Plaintiff and treat him different and apart from other employees. For example,
 15 Plaintiff underwent the following from 2008 through the present:

- 16 a. TRUMP would berate Plaintiff with questions, embarrass Plaintiff in
 17 front of others, randomly pull Plaintiff into his office and assign him
 18 odd and embarrassing tasks such as cleaning or organizing;
- 19 b. TRUMP told Plaintiff that "[Plaintiff] doesn't know what he is
 20 doing", and also make negative references to Plaintiff's "younger"
 21 age, stating that "[Plaintiff] is not capable of doing his job" and that
 22 "[Plaintiff] has no knowledge";
- 23 c. At Department meetings, TRUMP would single Plaintiff out
 24 and treat him different from all other employees. At these
 25 meetings, TRUMP would yell at Plaintiff, in front of other
 26 employees, "to report to [TRUMP'S] office immediately!"
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1 24. Plaintiff understands TRUMPS actions to be in direct retaliation for
2 Plaintiff's union start-up and activity and also for Plaintiff's reporting of
3 TRUMP'S harassment and retaliation.

4 **C. The Gag Order**

5 25. On or around May 3, 2010, the Department and CHIEF VASQUEZ
6 placed Plaintiff on administrative leave with a gag order whereby Plaintiff could
7 not contact any member of the Santa Monica College Police Department or any
8 college employees without permission from VASQUEZ. The gag order was issued
9 verbally and then memorialized in writing. On that same date, Plaintiff was not
10 informed of the reasons he was being placed on administrative leave.

11 26. The gag order hindered Plaintiff, the Parliamentarian of the POA, to
12 communicate with his fellow board members and other members of the
13 Association. Plaintiff was estopped from participating in any union activity and
14 was also estopped from acting as Parliamentarian of the POA. Plaintiff was also
15 hindered from communicating with his friends, who are members of the Santa
16 Monica College Police Department and also who are College employees. The gag
17 order is currently still in place.

18 27. In or about June, 2010 the Defendants' issued a complaint against
19 Plaintiff with Santa Monica Police Department ("SMPD") so that SMPD would
20 issue a search warrant for Plaintiff's home. The search warrant was signed by a
21 magistrate. It is Plaintiff's belief that the Department's complaint and search
22 warrant were issued to further harass, retaliate and humiliate Plaintiff.

23 **D. Race Discrimination, Harassment and Retaliation**

24 28. Plaintiff is a Caucasian officer and he works with several African-
25 American employees, including Defendant Sasha Agard, Defendant Jennifer Jones,
26 Sergeant Charles Bayes, and Defendant Tara Crittenden. From 2008 to 2010,
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1 Plaintiff has undergone discrimination, harassment and retaliation because of his
2 Caucasian race from the following persons: Defendant Sasha Agard, Defendant
3 Jennifer Jones, Sergeant Charles Bayes, and Defendant Tara Crittenden. Some
4 examples are:

5 a. In or about 2008 through 2010, an African-American Sergeant,
6 Charles Bayes, told Plaintiff that he could not come inside the police station
7 because he wasn't liked by the African-American employees;

8 b. In or about 2008 through 2010, an employee of SMC, DEFENDANT
9 SASHA AGARD, whom is an African American, frequently called/calls
10 Plaintiff a "blue-eyed white devil". Agard also uses this term with other
11 employees of the SMC/Department when referring to Plaintiff;

12 c. In or about 2008 through 2010, an employee of SMC, DEFENDANT
13 JENNIFER JONES, stated that Plaintiff was a "quintessential white boy and
14 I hate him";

15 d. In or about 2008 through 2010, JONES and AGARD constantly
16 made/make racial comments and jokes to other employees at the
17 SMC/Department regarding Plaintiff being Caucasian;

18 e. In or about 2008 through 2010, an employee of SMC, DEFENDANT
19 TARA CRITTENDEN, would constantly refer to Plaintiff as a "f*cking
20 cracker"; and "white boy".

21
22 29. After hearing the numerous derogatory and discriminatory comments
23 about Plaintiff, an SMC employee, Officer Mike Champagne reported the conduct
24 to DEFENDANT TRUMP. DEFENDANT TRUMP responded to Officer
25 Champagne with "[Plaintiff] deserves it". TRUMP did absolutely nothing when he
26 was notified that Plaintiff was constantly being harassed and discriminated against
27 because of his race.
28

1 30. In early 2010, Plaintiff also complained/reported to DEFENDANT
2 CHIEF VASQUEZ that Plaintiff was being discriminated against and harassed
3 because of his race. VASQUEZ replied to Plaintiff, "You may be knocking on a
4 door that you may not want to be knocking on, and that could be bad for your
5 career". Plaintiff took this comment as a threat to his career. VASQUEZ failed to
6 do anything to protect PLAINTIFF from discrimination and harassment.

7 31. Just a short month after Plaintiff complained of race discrimination,
8 on March 30, 2010, VASQUEZ placed Plaintiff on "administrative duty". Plaintiff
9 was forced to do demeaning tasks not otherwise assigned to police officers, such
10 as: cleaning, organizing storage containers and other various secretarial and
11 janitorial duties. Plaintiff was also forced to report to DEFENDANTS AGARD
12 and JONES, the same employees who had harassed Plaintiff because of his race.

13 32. In the middle of 2010, Plaintiff notified VASQUEZ that he was filing
14 a lawsuit. VASQUEZ told Plaintiff that "[Plaintiff] was not a proper fit [for
15 SMC]".
16

17 **FIRST CAUSE OF ACTION FOR**

18 **FEHA DISCRIMINATION (CAL. GOV. CODE SECTION 12940)**

19 ***Against Defendant(s) Santa Monica Community College District and Santa*** 20 ***Monica Community College Police Department***

21 33. Plaintiff repeats and re-alleges each and every allegation set forth
22 above, and incorporates same by reference as though set forth fully herein.

23 34. **Protected Employee:** Plaintiff is a protected employee, who is not
24 supposed to be discriminated against. California Government Code Section
25 12940(a).
26

27 35. **Covered Employer.** Santa Monica Community College and Santa
28 Monica Community College Police Department are public entities, and hence are
considered an employer. California Government Code Section 12926(d).

1 36. **Adverse treatment.** An employer may not discriminate in
 2 promotions, compensation, terms, conditions, or privileges of employment based
 3 on race and opposition to racial discrimination. Plaintiff was subjected to this
 4 adverse treatment in the form of lack of promotion, counseling, involuntary
 5 administrative penalty, denial of benefits, ostracism, negative evaluations, negative
 6 comment sheets, reassignments, retaliation, and other acts and conduct by
 7 Defendants as further described herein.

8 37. **Discriminatory Intent:** There was a causal connection between the
 9 race of Plaintiff and the adverse treatment by Defendants. Plaintiff's race was a
 10 factor in the employer's decisions and conduct, when viewing the totality of the
 11 circumstances.

12 38. **Discriminatory Intent:** There was a causal connection between the
 13 opposition to racial discrimination by Plaintiff and the adverse treatment by
 14 Defendants. Plaintiffs opposition to Defendants unlawful racial animus levied
 15 against its employees was a factor in the employer's decisions and conduct, when
 16 viewing the totality of the circumstances.

17 39. California Government Code section 12940(h) makes it unlawful for
 18 an employer, or person to discriminate against any person because he has opposed
 19 practices forbidden under Section 12940 (discrimination, harassment, or
 20 retaliation). Moreover, it is illegal to harass an employee under Section 12940(j)
 21 (1). The employer and individuals who pursue such harassment or retaliation (such
 22 as threatening to take disciplinary action against employees who have filed claims
 23 of discrimination, harassment or retaliation) may be personally liable. California
 24 Government Code Section 12940(j) (3). Defendants retaliated against the Plaintiff
 25 in violation of the law. Plaintiff was subjected to discrimination based on race and
 26 opposition to racial discrimination when Defendants targeted Plaintiff for the
 27 adverse actions and other conduct described herein and for singling out Plaintiff
 28 for such conduct, including, but not, improper comments; initiation of false
 complaints; unjustified counseling; unjustified written reprimands; negative and/or

1 unfavorable evaluations; ostracism in the workplace; initiating unjustified
 2 disciplinary investigations; initiating and creating negative rumors about Plaintiff's
 3 personal conduct; refusal of supervisors to stop wrongdoing; retaliation for his
 4 complaints of wrongdoing and opposition to harassment; differential and negative
 5 treatment of Plaintiff, and other conducted alleged herein.

6 40. As a legal result of the above-described conduct of Defendant,
 7 Plaintiff has sustained and will continue to sustain physical, mental, and emotional
 8 injuries, pain, distress, suffering, anguish, fright, nervousness, grief, anxiety,
 9 worry, shame, mortification, injured feelings, mental suffering, shock, humiliation
 10 and indignity, as well as other unpleasant physical, mental, and emotional
 11 reactions, damages to good name, reputation, standing in the community, and other
 12 non-economic damages.

13 41. As a further legal result of the above-described conduct of Defendant,
 14 Plaintiff was and will be hindered, prevented, and/or precluded from performing
 15 Plaintiff's usual activities, work, education, and occupation, causing Plaintiff to
 16 sustain damages for loss of income, wages, earning, and earning capacity, and
 17 other economic damages, in an amount to be ascertained according to proof.

18 42. As a further legal result of the above-described conduct of Defendant,
 19 Plaintiff
 20
 21 suffered incidental, consequential, and/or special damages according to proof.

22 43. As a further legal result of the above-described conduct of Defendant,
 23 Plaintiff has and will continue to incur attorneys' fees and costs according to proof.

24 **SECOND CAUSE OF ACTION FOR**
 25 **FEHA RETALIATION (CAL. GOV. CODE SECTION 12940)**
 26 *Against Defendant(s) Santa Monica Community College District and Santa*
 27 *Monica Community College Police Department*
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1 44. Plaintiff repeats and re-alleges each and every allegation set forth
2 above, and incorporates same by reference as though set forth fully herein.

3 45. **Protected Employee.** Plaintiff was a protected employee who
4 engaged in protected activity: complaining about harassment, discrimination,
5 and/or retaliation, who was subjected to adverse employment actions for reporting
6 and/or opposing the misconduct.

7 46. **Employer.** Defendants are all “employers” under California
8 Government Code section 12940(f) which includes governmental agencies and
9 individuals.

10 47. **Adverse Treatment.** Plaintiff was discriminated against in the
11 manners set out above, and harassed as shown above after opposing discriminatory
12 practices and/or harassment by Defendants and for notifying a fellow officer of the
13 existence of a document.

14 48. **Retaliatory Intent.** There is a causal link between the Plaintiffs
15 opposition to discriminatory practice and activity, and the adverse action taken by
16 the employer.

17 49. After Plaintiff reported and opposed discrimination, harassment, and
18 retaliation in the workplace by his employer and its agents, Plaintiff was subjected
19 to retaliation from his employer (Defendants), as described herein in the form of
20 discrimination and harassment conduct and actions against Plaintiff.

21 50. As a result of Defendants retaliatory conduct, continuous threats, fear
22 of further retaliation, illegal activity, coupled by SMC’s complete failure to timely
23 investigate and bring any resolution to this issue, Plaintiff’s working conditions
24 became intolerable.

25 51. The reprisal actions of Defendants caused Plaintiff to suffer injury,
26 damage, loss, or harm.

27 52. As a legal result of the above-described conduct of Defendants,
28

1 Plaintiff has sustained and will continue to sustain severe physical, mental, and
 2 emotional injuries, pain, distress, suffering, anguish, fright, nervousness, grief,
 3 anxiety, worry, shame, mortification, injured feelings, mental suffering, shock,
 4 humiliation and indignity, as well as other unpleasant physical, mental, and
 5 emotional reactions, damages to good name, reputation, standing in the
 6 community, and other non-economic damages.

7 53. As a further legal result of the above-described conduct of
 8 Defendants, Plaintiff was and will be hindered, prevented, and/or precluded from
 9 performing Plaintiffs usual activities, work, education, and occupation, causing
 10 Plaintiff to sustain damages for loss of income, wages, earning, and earning
 11 capacity, and other economic damages, in an amount to be ascertained according to
 12 proof.

13 54. As a further legal result of the above-described conduct of
 14 Defendants, Plaintiff suffered incidental, consequential, and/or special damages
 15 according to proof.

16 55. As a further legal result of the above-described conduct of
 17 Defendants, Plaintiff has and will sustain attorneys' fees and costs in an amount
 18 according to proof.

19 **THIRD CAUSE OF ACTION FOR**
 20 **FEHA HARASSMENT (CAL. GOV. CODE SECTION 12940)**

21 ***Against All Defendants***

22 56. PLAINTIFF repeats and re-alleges each and every allegation set forth
 23 above, and
 24 incorporates same by reference as though set forth fully herein.

25 57. **Protected Employee:** PLAINTIFF is a protected employee, who is
 26 not supposed to be harassed. *Matthews v. Superior Court*, (1995) 34 Cal.App.4th
 27 598.

1 **58. Covered Employer.** DEFENDANTS are all an “employer” for
 2 harassment purposes, as an employer is “any person regularly employing one or
 3 more persons, or any person acting as an agent of an employer...” Gov. Code
 4 section 12940(j)(4)(A). Supervisors, such as the individual defendants herein, may
 5 be held personally liable for harassment. *Page v Superior Court* (1995) 31
 6 Cal.App.4th 1209, 1212.

7 **59. Harassment on the basis of race.** DEFENDANTS and each of them
 8 engaged in unwelcome conduct based on race, including verbal conduct (i.e.
 9 derogatory comments or slurs) as well as insults towards PLAINTIFF by the
 10 conduct noted herein. DEFENDANTS also based employment decisions and other
 11 conduct on PLAINTIFF’s complaints of harassment and opposition to the
 12 harassment. Further acts of harassment include but are not limited to the
 13 following: improper comments of a racial nature; improper comments; initiation of
 14 false complaints; denied work assignments; unjustified counseling; negative and/or
 15 unfavorable evaluations; ostracism in the workplace; initiating and creating
 16 negative rumors about Plaintiff’s personal conduct; subjected to invasions of her
 17 personal property; refusal of supervisors to stop wrongdoing; retaliation for his
 18 complaints of wrongdoing and opposition to harassment; and other conducted
 19 alleged herein.

20 **60. Adverse treatment.** An employer may not discriminate in
 21 compensation, terms conditions or privileges of employment based on race.
 22 PLAINTIFF was subjected to this adverse treatment in the form of job detriments,
 23 demotion/lack of promotion, suspensions and other discipline, denial of benefits,
 24 ostracism, denial of days off, denial of special assignments, negative evaluations,
 25 negative comment sheets, transfers, reassignments, retaliation, and other acts and
 26 conduct by DEFENDANTS as further described herein.

1 61. As a legal result of the above-described conduct of DEFENDANT,
2 PLAINTIFF has sustained and will continue to sustain severe physical, mental, and
3 emotional injuries, pain, distress, suffering, anguish, fright, nervousness, grief,
4 anxiety, worry, shame, mortification, injured feelings, mental suffering, shock,
5 humiliation and indignity, as well as other unpleasant physical, mental, and
6 emotional reactions, damages to good name, reputation, standing in the
7 community, and other non-economic damages.

8 62. As a further legal result of the above-described conduct of
9 DEFENDANT, PLAINTIFF was required, and/or in the future may be required, to
10 engage the services of health care providers, and incurred expenses for medicines,
11 health care appliances, modalities, and/or other related expenses in a sum to be
12 ascertained according to proof.

13 63. As a further legal result of the above-described conduct of
14 DEFENDANT, PLAINTIFF was and will be hindered, prevented, and/or
15 precluded from performing PLAINTIFF's usual activities, school work, education,
16 and occupation, causing PLAINTIFF to sustain damages for loss of income,
17 wages, earning, and earning capacity, and other economic damages, in an amount
18 to be ascertained according to proof.

19 64. As a further legal result of the above-described conduct of
20 DEFENDANT, PLAINTIFF suffered incidental, consequential, and/or special
21 damages, in an amount according to proof.

22 65. As a further legal result of the above-described conduct of
23 DEFENDANT, PLAINTIFF has and will continue to incur attorneys' fees and
24 costs in an amount according to proof.

25 66. The conduct of DEFENDANTS and each of them was willful,
26 wanton, oppressive, fraudulent, despicable, and beyond that which should be
27 tolerated by a civilized society. The acts of DEFENDANTS and each of them
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1 were carried out with a conscious disregard of the likelihood of causing injury,
 2 suffering, or distress to PLAINTIFF and therefore punitive damages in a sum
 3 according to proof, consistent with the net worth of DEFENDANTS and in a sum
 4 sufficient to deter similar such conduct in the future is also sought against all
 5 individual and non-municipal defendants (i.e., not against COUNTY).

6
 7 **FOURTH CAUSE OF ACTION FOR**
 8 **FEHA FAILURE TO TAKE CORRECTIVE ACTION**
 9 **(CAL. GOV. CODE SECTION 12940)**

10 *Against Defendant(s) Santa Monica Community College District and Santa*
 11 *Monica Community College Police Department*

12 67. Plaintiff repeats and re-alleges each and every allegation set forth
 13 above, and incorporates same by reference as though set forth fully herein.

14 68. Plaintiff and another employee reported discrimination, harassment,
 15 and retaliation occurring against Plaintiff to Defendants, who failed to properly
 16 investigate the claims and failed to take proper corrective action to prevent further
 17 acts of discrimination, harassment, or retaliation against Plaintiff.

18 69. Defendants had an obligation to take corrective action to prevent
 19 further harassment of its employees, but failed to do so in violation of California
 20 Government Code section 12940(k) and other applicable portions of the
 21 Government Code. Defendants failed to conduct proper investigations, implement
 22 proper policies to prevent discrimination, harassment, or retaliation, and failed to
 23 properly punish those who engaged in misconduct to deter further such actions in
 24 the future.

25 70. The inactions and/or insufficient actions of Defendants caused
 26 Plaintiff to suffer injury, damage, loss, or harm, as described herein.
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1 71. As a legal result of the above-described conduct of Defendants,
2 Plaintiff has sustained and will continue to sustain severe physical, mental, and
3 emotional injuries, pain, distress, suffering, anguish, fright, nervousness, grief,
4 anxiety, worry, shame, mortification, injured feelings, mental suffering, shock,
5 humiliation and indignity, as well as other unpleasant physical, mental, and
6 emotional reactions, damages to good name, reputation, standing in the
7 community, and other non-economic damages.

8 72. As a further legal result of the above-described conduct of
9 Defendants, Plaintiff was and will be hindered, prevented, and/or precluded from
10 performing Plaintiff's usual activities, school work, education, and occupation,
11 causing Plaintiff to sustain damages for loss of income, wages, earning, and
12 earning capacity, and other economic damages, in an amount to be ascertained
13 according to proof.

14 73. As a further legal result of the above-described conduct of
15 Defendants, Plaintiff suffered incidental, consequential, and/or special damages
16 according to proof.

17 74. As a further legal result of the above-described conduct of
18 Defendants, Plaintiff has and will sustain attorneys' fees and costs in an amount
19 according to proof.

20 75. The aforescribed acts and omissions of the Defendants were
21 committed pursuant to and as a part of an official policy, custom and practice
22 established by the City with purpose and effect of depriving the Plaintiff the
23 aforesaid civil and constitutional rights on the unlawful bases of race, ethnicity,
24 expression, association and political affiliation. As a direct and proximate result of
25 the official policy and practices of the City as complained of herein, the Plaintiff
26 has suffered injury.

1 76. As a direct and proximate result of the acts and omissions of the
 2 defendants as aforescribed the Plaintiff suffered the following injuries,
 3 including, but not limited to: Damages to Plaintiffs career and standing in his
 4 profession; Impeded and foreclosed opportunities for promotion; Emotional
 5 distress; Other tangible injuries associated with the violation of his and
 6 constitutional rights.

7 **FIFTH CAUSE OF ACTION FOR**
 8 **VIOLATION OF 42 USC 1983, ET.SEQ. [VIOLATION OF PLAINTIFF'S 1st**
 9 **AMENDMENT RIGHT TO FREE SPEECH AND ASSOCIATION]**

10 *Against Defendants Santa Monica Community College District, Santa Monica*
 11 *Police Department, Kurt Tump and Albert Vasquez*

12 77. Plaintiff hereby incorporates each and every preceding paragraph as
 13 though set forth in full here.

14 78. In doing the things alleged herein, Defendants, and each of them,
 15 violated the rights of Plaintiff under the First and Fourteenth Amendments to the
 16 United States Constitution for their actions, which are not limited to: retaliation for
 17 Plaintiff's union activity and for their actions of placing a gag order on Plaintiff.
 18 The acts and omissions of Defendants, and each of them, were done by Defendants
 19 under color of state law in their capacity as an entity chartered under state law, and
 20 as policy making authorities to which Defendants delegated its governing powers
 21 in the subject matter areas in which these policies were promulgated or decisions
 22 taken or customs and practices followed.

23 79. The acts and omissions of Defendants as alleged herein manifested or
 24 conformed to official policies, customs, practices, or decisions of Defendant SMC
 25 in that SMC delegated to Defendants TRUMP and VASQUEZ its policy making
 26 authority in all matters of employment relations within the police department,
 27 and/or SMC, with knowledge of the afore said policies, customs, practices and
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1 decisions of Defendants TRUMP and VASQUEZ, approved, ratified and adopted
 2 said policies, customs, practices and decisions. Specifically, Defendants TRUMP
 3 and VASQUEZ, at all times relevant to the allegations herein, maintained final
 4 policy making authority with respect to the adverse employment actions and the
 5 gag order against Plaintiff. It was or should have been plainly obvious to any
 6 reasonable policy making official of Defendant SMC that the acts and omissions of
 7 Defendants as alleged herein, taking singly or in conjunction, directly violated and
 8 continue to violate Plaintiffs clearly established constitutional and statutory rights.

9 80. In doing the things alleged herein, Defendants acted with malicious
 10 intent to violate Plaintiff's rights, or at least in conscious, reckless, and callous
 11 disregard of Plaintiff's rights and to the injurious consequences likely to result from
 12 a violation of said rights. General, special, and exemplary damages are sought
 13 according to proof. Punitive damages are sought only against Defendants TRUMP
 14 and VASQUEZ according to proof. Injunctive relief is sought to command
 15 Defendants to refrain from any further retaliatory action against Plaintiff.

16 81. Plaintiff has suffered mental anguish, humiliation and emotional
 17 distress as a consequence of Defendants' conduct and economic damages
 18 according to proof at trial.

19 PRAYER

20 WHEREFORE, Plaintiff prays:

- 21 1. For general, special, exemplary damages according to proof;
- 22 2. For punitive damages;
- 23 3. For injunctive relief;
- 24 4. For back pay and front pay (wages, salary and benefits);
- 25 5. For compensatory damages (future loss, emotional distress, pain and
- 26 suffering, inconvenience, mental anguish and loss of enjoyment of
- 27 life);
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6. For costs of suit;
7. For attorneys fees under 42 USC §1988 and otherwise as permitted by law; and
8. For other appropriate relief.

Dated: August 15, 2011

LACKIE, DAMMEIER & MCGILL APC

BY: 

Michael A. McGill
Carolina Veronica Diaz
Attorneys for PLAINTIFF
RUSSEL RUETZ

PROOF OF SERVICE

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 367 North Second Ave., Upland, California 91786.

On **August 16, 2011**, I served the following document described as **SECOND AMENDED COMPLAINT FOR DAMAGES** on the interested parties in this action by placing a true and correct copy of each document thereof, enclosed in a sealed envelope addressed as follows:

<p><i>Attorneys' for Santa Monica Community College District, Albert Vasquez, Sheryl Agard, Jennifer Jones and Tara Crittenden</i> Louis R. Dumont, Esq. Jill W. Babington, Esq. CARPENTER, ROTHANS & DUMONT 888 S. Figueroa Street, Suite 1960 Los Angeles, CA 90017 Phone (213) 228-0400 Fax (213) 228-0401</p>	
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☐ I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at Upland, California.

☐ By Personal Service, I caused such envelope to be delivered by hand to the above addressee(s).

☒ By Overnight Courier, I caused the above referenced document(s) to be delivered To an overnight courier (UPS) for delivery to the above addressee(s).

Executed on **August 16, 2011**, at Upland, California.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.



 ARLENE JUAREZ